

REMARKS

In the Office Action mailed January 30, 2004 the Examiner noted that claims 1-9 were pending, and rejected claims 1-9. Claims 1 and 9 have been amended, new claim 10 has been added and, thus, in view of the forgoing claims 1-10 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and requirements are traversed below.

In the Action the Examiner required a new title and one has been provided.

On page 2 of the Office Action, the Examiner rejected claims 1-6 and 9 under 35 U.S.C. §102 as anticipated by Lerche. Page 5 of the Office Action variously rejects claims 7 and 8 under 35 U.S.C. § 103 over Lerche in combination with Saville or Craig.

Lerche is directed to a system that that remotely updates modem software where the modem (see figure 2) includes an EEPROM 44 and RAM 48. The EEPROM 44 (see figure 3) stores a stack pointer 60, a PC 62, a boot ROM image 72, an old application image and a new application image 78. Typically, the processor 42 executes the first or old application image after the boot ROM is expanded or copied into RAM 48 and executed. When an upgrade occurs the new application image is stored in the EEPROM 44, and the boot ROM and new application are expanded or copied into the RAM 48 and executed upon the next start up.

In contrast, the present invention has several storages, boot storage, a basic OS storage and a maintenance OS storage. In the case of an application upgrade, the upgrade is stored in the basic OS, the maintenance OS is expanded and executed to control operation rather than or in the place of the basic OS and the update is completed. Afterward the update is complete and a reboot occurs the operation control is returned to expanding the basic OS and using it for control. (See application figure 1 and the accompanying discussion.)

In particular, Lerche teaches nothing about multiple OS regions, particularly nothing about a maintenance OS, nothing about the basic OS region storing the upgrade when received and nothing about a maintenance OS being used during the update of the application software. These features are variously emphasized in the independent claims including new claim 10.

Saville and Craig say nothing about the above discussed features of the present invention.

It is submitted that the invention of independent claims distinguishes over the prior art and withdrawal of the rejection is requested.

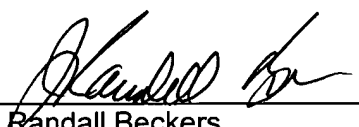
The dependent claims depend from the above-discussed independent claims and are patentable over the prior art for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the prior art. For example, claim 5 emphasizes that a device other than the computer and with a different power supply monitors the update for a time out. The Examiner points to col. 8, lines 47-60 and alleges that an ISP does this for the modem update of Lerche. The portion of Lerche noted by the Examiner discusses a timeout operation by the modem and not the ISP. Lerche does not teach or suggest the above-discussed feature of the present invention. It is submitted that the dependent claims are independently patentable over the prior art.

It is submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,
STAAS & HALSEY LLP

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By: 
J. Randall Beckers
Registration No. 30,358

1201 New York Avenue, NW, Suite 700
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501